

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 MICHAEL V. LUJAN,

Case No.: 3:21-cv-00152-MMD-WGC

4 Plaintiff

Order

5 v.

6 STATE OF NEVADA, et. al.,

7 Defendants
8

9 Plaintiff is an inmate incarcerated within the Nevada Department of Corrections
10 (NDOC), currently housed at Northern Nevada Correctional Center (NNCC). He filed a civil
11 rights complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1-1.) The Local Rules of Practice for
12 the District of Nevada provide: “Any person who is unable to prepay the fees in a civil case may
13 apply to the court for authority to proceed *in forma pauperis* (IFP). The application must be
14 made on the form provided by the court and must include a financial affidavit disclosing the
15 applicant’s income, assets, and liabilities.” LSR 1-1. When a prisoner seeks to proceed without
16 prepaying the filing fee, in addition to filing the affidavit, the prisoner is required to submit a
17 certified copy of the trust fund account statement (or institutional equivalent) for the six-month
18 period immediately preceding the filing of the complaint. The statement must be obtained from
19 the appropriate official at the prison or detention facility where the prisoner is or was confined.
20 28 U.S.C. § 1915(a)(2).

21 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
22 amount of the filing fee. The court is required to assess, and when funds exist, collect an initial
23 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the

1 prisoner's account or (B) the average monthly balance in the prisoner's account for the six-
2 month period immediately preceding the filing of the complaint. Thereafter, whenever the
3 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
4 preceding month's income credited to the prisoners account until the filing fees are paid. The
5 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
6 (2).

7 The regular filing fee is \$402, consisting of the \$350 filing fee and a \$52 administrative
8 fee. If an inmate does not qualify for IFP status, he must pay the full \$402 filing fee. If the
9 inmate qualifies for IFP status, the \$52 administrative fee is waived, and the inmate will only pay
10 the \$350 filing fee over time.


11 On April 7, 2021, Plaintiff filed an application to proceed IFP; however, it is not on the
12 correct form for an inmate, and it is not accompanied by the required financial certificate. (ECF
13 No. 3.) The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed IFP
14 for an inmate. Plaintiff has **30 days** from the date of this Order to either file his completed IFP
15 application and financial certificate or pay the full \$402 filing fee.

16 Once Plaintiff has filed his completed IFP application and financial certificate or paid the
17 filing fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C.
18 § 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is frivolous
19 or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief
20 against a defendant who is immune from such relief. If the complaint is dismissed on screening,
21 there will be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the
22 \$350 filing fee over time.

1 If Plaintiff fails to timely file a completed IFP application and financial certificate or pay
2 the filing fee, this action will be dismissed.

3 **IT IS SO ORDERED.**

4 Dated: April 8, 2021

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7 William G. Cobb
8 United States Magistrate Judge
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